

## **Highlights of Final Rules Regarding Credit Card Accounts Interagency Discussion on Unfair Credit Card Practices Rule**

Tuesday, February 24, 2009

### **FTC Act (Unfair Acts or Practices) Final Rule**

The final rule prohibits unfair or deceptive acts or practices in connection with credit card accounts. The effective date for the rule is July 1, 2010.

- Time to Make Payments. The final rule prohibits institutions from treating a payment as late for any purpose unless the institution provides a reasonable amount of time for the consumer to make that payment. The rule provides a safe harbor for institutions that send periodic statements at least 21 days prior to the payment due date.
- Financing of Security Deposits and Fees. The final rule addresses concerns regarding subprime credit cards with high fees and low credit limits. Institutions would be prohibited from financing security deposits and fees for credit availability (such as account-opening fees or membership fees) if charges assessed during the first 12 months would exceed 50 percent of the initial credit limit. The rule also limits the security deposits and fees charged at account opening to 25 percent of the initial credit limit and requires any additional amounts (up to 50 percent) to be spread evenly over at least the next five billing cycles.
- Allocation of Payments. When different annual percentage rates (APRs) apply to different balances on a credit card account (for example, purchases, balance transfers, cash advances), the final rule requires institutions to allocate payments exceeding the minimum payment to the balance with the highest rate first or pro rata among all of the balances.
- Two-Cycle Billing. The final rule prohibits institutions from calculating interest using a method referred to as “two-cycle billing.” Under this method, when a consumer pays the entire account balance one month, but does not do so the following month, the institution calculates interest for the second month using the account balance for days in the previous billing cycle as well as the current cycle.
- Increasing Interest Rates. The final rule requires institutions to disclose at account opening all interest rates that will apply to the account and prohibits increases in those rates, except in certain circumstances. First, if a rate disclosed at account opening expires after a specified period of time, institutions may apply an increased rate that was also disclosed at account opening. Second, institutions may increase a rate due to the operation of an index (in other words, the rate is a variable rate). Third, after the first year, institutions may increase a rate for new transactions only after complying with the 45-day advance notice requirement in Regulation Z. Fourth, institutions may increase a rate if the minimum payment is received more than 30 days after the due date.

## **Regulation Z (Truth in Lending) Final Rule**

The final rule amends Regulation Z to improve the effectiveness of the disclosures consumers receive in connection with credit card accounts and other revolving (non home-secured) credit plans. The effective date for the Regulation Z amendments is July 1, 2010.

- Applications and Solicitations. The final rule contains format and content changes to make the credit and charge card application and solicitation disclosures more meaningful and easier for consumers to use. These disclosures are provided in the form of a table that summarizes the key account terms. The changes include:
  - Format Revisions. New format requirements for the summary table include rules regarding type size, the use of boldface type for certain key terms, and the placement of information.
  - Content Revisions. Creditors must disclose the duration that penalty rates may be in effect, simplify disclosures about variable rates and revise disclosures regarding when a grace period is offered on purchases or when no grace period is offered.
- Account-Opening Disclosures. The final rule enhances the cost disclosures provided at account opening to make the information more conspicuous and easier to read. Certain key terms must be disclosed in a summary table at account opening, which is substantially similar to the table required for credit and charge card applications and solicitations.
- Periodic Statement Disclosures. The final rule contains revisions to make disclosures on periodic statements more understandable, primarily by making changes to the format requirements, such as by grouping fees and interest charges together. The changes include:
  - Interest Charges and Fees. Interest charges and fees must be grouped separately, with a monthly total for each. Interest charges must be itemized according to the type of transaction (such as interest charged on purchases, and interest charged on cash advances). Separate year-to-date totals for fees and interest charges are also required.
  - Effective APR. The requirement to disclose an “effective annual percentage rate” is eliminated due to the lack of consumer understanding of this term. New requirements to disclose interest and fee totals for the month and year-to-date should more effectively inform consumers of the total cost of credit.
  - Minimum Payment Disclosure. The effect of making only the minimum required payment on the time to repay balances must be disclosed, as required by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

- Changes in Consumer's Interest Rate and Other Account Terms. The final rule expands the circumstances under which consumers receive written notice of changes in the account terms (such as, an increase in the interest rate), and increases the amount of time these notices must be sent before the change becomes effective. The changes include:
  - Increase in Advance Notice for Changes in Terms. The final rule increases the amount of advance notice before a changed term can be imposed from 15 to 45 days to better allow consumers to obtain alternative financing or change their account usage.
  - Requiring Prior Notice for Penalty Rate Increases. Creditors must provide 45 days' prior notice before the creditor increases a rate due to the consumer's delinquency or default or as a penalty.
  - Summary Table. When a change-in-terms or penalty-rate notice accompanies a periodic statement, the final rule requires creditors to provide a tabular disclosure on the front side of the periodic statement showing the key terms being changed.
- Additional Protections. The final rule includes the following additional protections for consumers:
  - "Fixed" Rates. Advertisements may refer to a rate as "fixed" only if a time period is specified for which the rate is fixed and the rate will not increase for any reason during that time, or if a time period is not specified, if the rate will not increase for any reason while the plan is open.
  - Cut-Off Times and Due Dates for Mailed Payments. Creditors must set reasonable cut-off hours for mailed payments to be considered timely on the due date. The final rule deems 5 p.m. to be a reasonable time. When mailed payments are not accepted on the due date, such as on weekends or holidays, creditors must consider a payment received on the next business day as timely.
  - Fees for the Issuance of Credit. The final rule requires both better disclosure and enhanced protection for consumers considering cards with account opening fees.
    - Where account opening fees constitute more than 15% of the credit limit, creditors must provide an example of the amount of available credit a consumer would have remaining after fees are assessed, assuming that the consumer receives the minimum credit limit offered on the account.
    - Creditors must permit consumers to reject a plan with no obligation to pay fees after receiving account opening disclosures if they have not used the account.